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STATE DOCUMENTS
COLLECTION

GOVERNOR'S MESSAGE
TO THE
FIFTH LEGISLATIVE ASSEMBLY,
State of South Dakota,

Delivered

JANUARY 5, 1897.

PIERRE
CARTER PUBLISHING CO.
1897

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GOVERNOR'S MESSAGE.

Gentlemen of the Senate and House of Representatives:

In compliance with the Constitution I have the honor to present for your consideration a brief history of the affairs of the State for the past two years, with a few suggestions as to changes in our laws, which experience has taught us are much needed.

SECRETARY OF STATE.

The fees collected in the office of the Secretary of State for the two years ending June 30, 1896, were \$9,669.19 all of which were turned into the state treasury. I desire especially to call your attention to the condition of the miscellaneous library, now piled promiscuously in one of the rooms in this capital building, the condition of which is mentioned in the report of the Secretary. Something should be done for the care of these books. Many of them are valuable, and it will only be necessary for you to take a brief look at them piled as they are in heaps upon the floor, to see that some appropriation must be made that a suitable place for their care may be provided.. The Secretary declares that all the insurance which the state holds upon the capital building, the heating apparatus, the law library and the miscellaneous library, will expire before the legislature of 1899 convenes. It will therefore be your duty to make such appropriation as is necessary to provide the moneys for the renewal of proper insurance.

The legislature of 1895 passed a Joint Resolution requesting the Governor of the State of North Dakota to cause to be transmitted to the Secretary of State of South Dakota certain original, special, private and local laws, resolutions and memorials passed by the legislative assembly of the Territory of Dakota, and relating exclusively to that part of said territory included within the boundaries of the state of South Dakota, together with such original charters, articles of incorporation and other public documents and papers originally filed and deposited with the Secretary or other officers of the territory and now in the possession of the state of North Dakota, as relate exclusively to municipal and other corporations located, or resident in the state of South Dakota, or having their principal places of business there."?

The Secretary reports that after much correspondence with the Governor and Secretary of the state of North Dakota, the only original records he has been able to secure are bonds of notaries public appointed within the limits of what is now South Dakota. The Honorable Secretary of, State of North Dakota in a letter of June 4, 1895, among other things, says that "as before stated in accordance with the agreement by the joint commission of the constitutional conventions of the two states the following records and papers should be the property of South Dakota as given in section 21, schedule of the constitution: Records of articles of incorporation of domestic corporations, returns of the election of delegates to the constitutional convention 1889 for South Dakota, returns of election held under the so-called local option law in counties within the limits of South Dakota, bonds of notaries public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situated within the limits of South Dakota, all of which records and archives are a part of the records and archives of said secretary's office."

The Secretary is therefore of the opinion that in order to obtain the originals enumerated in said Joint Resolution, Chapter 111, Laws of 1895, that you should request the legislature of North Dakota to authorize by resolution or enactment, its Secretary of State to forward to his department the aforementioned originals, in which opinion I most heartily concur.

TREASURER.

When the present treasurer assumed the duties of his office two years ago, he found himself at once confronted by a terrible condition of affairs. While the books showed a cash balance on hand of \$367,020.59, not a single cent was available. W. W. Taylor, the ex-treasurer, had defaulted for the full amount, and as was shortly learned had absconded. It was a trying time for the new treasurer. The legislature was just meeting, vouchers were presented at once for mileage of members and for all other incidental expenses immediately incurred, and for which members required their money. The result was that a large amount of warrants were registered for want of funds with which to pay them. These warrants were at once sold to parties standing ready to buy them at from five to seven per cent discount to the great injury of the credit of the state. It was a period of nervous anxiety not to the treasurer alone, but to the Executive and the citizens throughout the state, who were solicitous for its welfare and its good name. Relief came sooner than was expected. A bill was early introduced before both houses of the legislature, providing for the issuance of anticipatory or general fund warrants, based upon taxes assessed but not yet collected, of which there were something over \$546,000 due the state on the first of January of that year. The bill was finally enacted into a law, Chapter 91, Session Laws of 1895. Before the passage of the Act, however, the First National Bank and the American National Bank of Deadwood, came to our relief and furnished us \$75,000 with which to redeem the warrants already

issued and stop their further issuance. It was a generous act on the part of these banks and went far toward teaching men that South Dakota, although the victim of a terrible calamity -was yet not without credit.

After the passage of the act, it was at once submitted to the Supreme Judges for their opinion as to its constitutionality. It was by them decided to be good law, and the treasurer without difficulty placed the authorized warrants. Mr. Taylor left \$220,000 of outstanding warrants unpaid. Treasurer Phillips was compelled to try to secure an extension of time for their payment, which he finally succeeded in doing. Early in 1895 \$100,000 of these warrants were paid. The holders were surprised at the early offer of their money, and were inclined to refuse payment, because the time for which they had been extended had not expired. Later, the treasurer called for the remaining \$120,000. The holders refused absolutely to surrender them upon the claim that they had been extended for one year. At the expiration of this time, they were promptly paid.

The treasurer has also met promptly every warrant which has been issued by him under the provisions of Chapter 91, heretofore mentioned, and it is with great gratification that I am able to say to you that the state's finances during the past two years have not only been faithfully, but intelligently, managed. Our financial condition today is a credit to the treasurer which it is impossible to emphasize too thoroughly.

Up to the close of the last fiscal year, the treasurer had received in cash on account of NP. W. Taylor, \$128,860.88. Other moneys have since been paid, amounting to a few thousand dollars, account of which could not be embraced in the Treasurer's report, having been received since the close of the last fiscal year. Upon the recommendation of the Executive, the last legislature enacted Chapter 152, of the Laws of that session, for the purpose of throwing greater security around the public funds. That law provides for the making of a report by the treasurer to the Executive at the close of each month, showing all the moneys for which he is accountable, and telling where they are. It also provides that banks holding any of the moneys standing to his credit and belonging to the state shall at the same time make a sworn statement to the Governor, giving the amount of money for which they are responsible. These things have been done each month. The Treasurer's report and the reports from the banks are all entered in a book in the Executive office, and open to the inspection of the citizens at any time. If the Governor does his duty faithfully, it is hard to see how anything can go wrong with the treasurer for any great length of time, without his cognizance.

I take pleasure in speaking in the highest terms of the management of the treasury for the last two years. It has been business-like in every respect, and I believe the people have felt that their money was in safe hands.

AUDITOR'S REPORT.

Your attention is respectfully invited to a careful consideration of the very complete report from the Auditor's department, much of the detail of

which cannot be embraced in this Message. His suggestions are timely and should receive careful consideration at your hands. The large number of old territorial warrants outstanding, for payment of which provision has not been made, should be carefully inquired into, and if the state is responsible for them, provision should be made for their payment.

The question of assessment and taxation is and always will be a vexed question, in which there is more or less inequality. While the provision of our law is plain, that all property shall bear its equal proportion of the taxes, and shall be assessed at its value, yet it is known by every man acquainted with the system prevailing in this state that the law is not complied with. The Auditor very pertinently says: "Our revenue law certainly could be greatly improved. At the present time its constitutionality is questionable and its enforcement is so illy provided for that much of the intent of the statute remains unheeded by those who have its provisions to enforce." "In many instances, the provisions for taking assessment and making returns should be so remedied that all assessors may be held responsible for errors in their work and their conclusions should be subject to better adjustment than at present. If the higher boards of equalization cannot be properly empowered, it will certainly be well to create a state officer known as Tax Statistician and Adjuster."

There is certainly great carelessness upon the part of the assessors. The Auditor reports that Hutchinson county returns less land than in former years, and he very justly observes that the state board "had no power to place the land on the lists, and on the face of the returns raised farm lands which were in reality assessed as high as before, ten per cent. or some \$1,400 tax in round numbers." Since the action of the Board the County Auditor has discovered 8,695 acres of land and \$195,000 valuation not returned. In Douglas county for the present year lands were returned at 183,408 acres, while last year there were 247,935 acres, and yet lands have been proved up in Douglas county the past year. Such gross negligence works great injustice, but there is no power on the part of the state Board. of Equalization and Assessment to correct these mistakes.

The inequality in the assessment of banks and merchandise, not only as to themselves, hilt in their relation to other property is something that ought to receive your careful attention, and if it is in your power to provide a law by which this property may be -reached and made to bear its equal share of taxation, it is your duty to enact it. The report of the Auditor shows that Union county returned to the State Board of Assessment, moneys of banks, \$9,416; credits of banks, \$9,780; bank stock, none. The bank report showing the banks of that county to be of considerable capital, the board raised "credits of banks" in that county 300 per cent. On transmitting the report of the board's action to the officers of Union county this change was included. In the report of the proceedings of the Board of County Commissioners for September, the following order appears:

"On motion the following resolution was adopted:

"It appearing to the satisfaction of the board that the assessment for 1896 of the Union County Bank and the Citizen's Bank were erroneously entered in the assessor's book under the head of `credits' when the same should have been entered as `moneys,' therefore the auditor is directed to strike out such assessment under the head of `credits' and to enter the same under the head of `moneys of banks' at the same respective valuations as returned by the assessor under the head of `credits.'

"Dated Elk Point, S. D., September 8, 1896.

"Approved and adopted.

W. H. Doss,

"Chairman Board of County Commissioners, Union County, S. D."

The auditor says, "This action leaves the bank assessment of Union county unchanged, and the action of the state board set aside, the final action showing no bank stock assessment at all in that county as shown on page 207 of the auditor's report.

The report further shows that in 1895 fifteen county auditors returned abstracts showing no moneys in banks and in nineteen organized counties no bank credits. A careful examination of the table given on page 207 of the said report will convince you of the inequality of taxation of merchandise in the various counties of the state: Clay county \$40,120, Hutchinson \$85,633, Minnehaha \$217,265 and so on through the list are to be found evidences that the assessment is not equitable, and the belief is expressed that a very large per centage of this property escapes taxation. Farm lands, and the farmer's personal property is all in sight and the assessor can reach it very easily. The property of banks and merchants is property with which the ordinary assessor is not acquainted, and there ought to be some provision of law through which these classes of property can be more surely made to bear their portion of the public burden.

I hope this legislature will not fail to give careful attention to these matters, and place the responsibility where it belongs. The state board of assessment and equalization cannot go behind the abstracts furnished by the county auditors, except in equalizing each species of property throughout the state. The last state board of assessment and equalization made provision for reducing the bonded indebtedness of the state \$106,600 by the levy of a 1.8 mills for the interest and sinking fund taxes. The bonds to be redeemed are \$25,000 5 per cent bonds dated May 1, 1887, issued for the Normal school at Spearfish, payable after ten years; \$10,000 6 per cent bonds dated July 1, 1885 issued for construction of School of Mines at Rapid City, payable in 20 years or at the option of the state after ten years; \$13,600 at 6 per cent bonds dated July 1, 1885 issued for the completion of the Madison Normal School, payable in 20 years or at the option of the state after ten years; \$16,000 of 6 per cent bonds dated July 1, 1885 issued for the construction of dormitory, etc., for School for Deaf Mutes, payable in 20 years, or at the option of the state after July 1, 1895; \$12000 of 6 per cent bonds issued

May 1, 1883 for construction of Deaf Mutes School, Sioux Falls, payable May 1, 1903 or at the option of the state after May 1, 1893; Also \$30,000 bonds dated May 1, 1883 issued for the construction of the main building South Dakota University, Vermillion, payable in 20 years or at the option of the state after 10 years. This will reduce the interest indebtedness \$6,146 per annum.

The Auditor very properly suggests that the legislature should pass an act providing for the call of these bonds at once.

ATTORNEY GENERAL.

In presenting the report of the Attorney General, I desire to ask each legislator to give this report his thorough personal consideration. There is much contained therein of more than ordinary interest, especially the action which was taken by his department in the case of the State vs. William Walter Taylor, late defaulting state treasurer, and others, upon his official bond. A full and complete history of the proceedings is given therein. Every item of expenditure will be found in tables, showing exactly what was done and how it was done.

This defalcation was a matter of grave concern to our people.

The recommendations of the Attorney General in regard to certain landed property taken by the state from Taylor and his bondsmen, are worthy of your careful consideration. Some disposition should be made of this property in cases where it is possible that the state's interest may not suffer. I leave this matter with you, without any further comment, confident that the time will come when the action of the Attorney General will receive the approval of the people. There are many other matters of great interest contained in said report, but which for want of space cannot be incorporated here.

REPORT OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

The report of the Superintendent of Public Instruction contains much that invites your very careful study and attention. When it is remembered that the people of this young, sparsely settled state during the last fiscal year paid \$1,688,433.33 for the maintenance of the public schools and that this money was paid willingly as providing for something which lies nearest to their hearts, namely the education of their children, the importance of this being understood by those who are to make laws under which the common schools of the state are to be governed, cannot be over-estimated.

The report shows that there are in the state, unmarried persons between six and twenty years of age, 88,083; that the whole number of pupils enrolled during the year 78,028. It is worthy of your attention that under the direction of the State Superintendent our common district schools are now graded, that duties are prescribed to teachers which must be faithfully carried out, report of which is required to be made to their superiors. Examinations are had and certificates, or what may properly be called diplomas are given to the children when they have finished the course of study pro-

vided in the common school. It is desired that these diplomas shall admit children who have graduated from a common school to one of our high or graded schools in any of the towns of the state, and that their graduation there shall entitle them to admittance to the University without examination.

That the State Superintendent is entitled to much credit for the advancement which has been made in the condition of our public schools during the past two years, needs no declaration from me to those who are acquainted with his work. The people all over the state manifest great interest in the public schools, many of them attending the institutes that are held in the different counties, adding the encouragement of their presence in stimulating laudable ambition among those who are to be the instructors of their children. We may well be proud of the progress we have made during the few years of statehood.

A careful study of the tables contained in the Superintendent's report will be found by the legislators, to be of great value.

COM MISSIONER OF SCHOOL AND PUBLIC LANDS.

The report of the Commissioner of School and Public Lands, shows \$2,044,835.49 as the total permanent school fund derived from the sale of public lands, including the five per cent received from the general government, of which \$650,122.44 has been distributed to counties, leaving \$1,394,713.05 as the amount of deferred payments.

There was collected during the fiscal year ending June 30th., 1896, and apportioned to the common schools of the state from the Interest and Income Fund, the sum of \$140,439.15, and \$1,753.78 for endowment purposes. The Commissioner's office also turned into the general fund of the state fees to the amount of \$2,041.50.

Of the 2,150,400 acres of land given to the state for the use of the common schools, 145,684.78 acres have been sold, leaving 2,004, 715.22 acres yet remaining. This statement embraces only the common school lands in that part of the state which has been opened up to settlement. The report of the Commissioner contains much useful information concerning delinquencies and forfeitures, selections in Indian Reservations, selections of indemnity and endowment lands, and also in regard to the Ft. Randall and Ft. Sully Military Reservations.

The last legislature, chapter 163, Laws of 1895 appropriated 40,000 acres of endowment land for the State Normal School in Springfield, BonHomme County, to be selected out of the grant of 170,000 acres made by Congress for "other educational and charitable purposes." It was made the duty of the Governor, Commissioner of School and Public Lands and State Auditor to make such selections within one year from the taking effect of said act. In compliance therewith, on the 9th. day of January 1891, 21,610.35 acres of said land were selected and set apart to said institution. On the 29th. of

June, the remaining portion of said land appropriated was selected and also set aside as provided in said act.

An Act was also passed by the last legislature, Chapter 164, Laws of 1895, appropriating 40,000 acres endowment lands for the use and benefit of the Northern Hospital for Insane, to be selected by the Commissioner of School and Public Lands, the State Superintendent of Public Instruction and the State Auditor from the Congressional grant before mentioned. These lands were selected and set apart for the benefit of said institution on the third day of March, 1896.

Statement No. 19 of this report shows, \$610.26, of endowment funds included in the defalcation of W. W. Taylor, late Treasurer of the state, which amount was not embraced in the bonds sold by the state to make good the deficiency in the permanent school fund and the interest and income fund, and the same is still due the said funds. The Commissioner suggests that provision should be made for the transfer from the funds received by the state from said Taylor and his bondsmen, of an amount sufficient to restore this amount to the proper funds. The bonds issued by the state to make up the deficit in the permanent school and interest and income fund, authorized under an act of the last legislature, which act received the sanction of the Supreme Court as to its constitutionality, were issued under Section 2, of Article 8 of the constitution which provides that the permanent school fund "shall be deemed a trust fund held by the state." The principal shall forever remain inviolate and may be increased, but shall never be diminished, and the state shall make good all losses thereof which may in any manner occur." Section 3, also declares, "and no part of the fund, either principal or interest shall ever be diverted even temporarily from this purpose or used for any other purpose whatever than the maintenance of public schools for the equal benefit of all the people of the state."

The investment of the permanent school fund is a subject worthy of your very careful investigation. Under the provisions of the law this fund is now invested throughout the several counties of the state. While the constitution and the law provides that these moneys shall only be invested upon improved farm lands, there is reason to believe that in many cases this provision has been disregarded. The commissioner declares that in many instances counties have been compelled to pay interest on the permanent school fund invested by them in farm lands on account of the default of the borrowers. That this fund should be safely placed, and the interest promptly paid is imperative. In view of these and many other considerations which are enumerated in the report of the Commissioner of School and Public Lands, it is deemed wise that some provision shall be made by the legislature other than that which now exists, for investment at the discretion of the commissioner in state and county bonds. The following bonds now owing by the state are matured and can be refunded at any time:

\$10,000 five per cent bonds, dated Nov. 20, 1883, issued for construction of Agricultural College at Brookings, payable in 20 years or at the option of the state in 10 years.

\$10,000 five per cent bonds dated Dec. 31, 1883, issued for construction of Agricultural College at Brookings payable at the same time.

\$20,000 five per cent bonds dated April 22, 1884, issued for construction of Agricultural College at Brookings, payable in 20 years or at the option of the state after April 22, 1894.

\$500 five per cent bonds, dated Sept. 18, 1884, issued for construction of Agricultural College at Brookings payable in 20 years or at the option of the state after Sept. 18, 1894.

\$500 five per cent bonds, dated Dec. 6, 1884, issued for construction of Agricultural College at Brookings, payable in 20 years or at the option of the state after Dec. 8 1894.

\$20,000 six per cent bonds, dated July 1, 1885, issued for completing Agricultural College at Brookings, payable July 1, 1905 or at the option of the state after July 1, 1895.

Would it not be well for the legislature to provide for the refunding of these bonds into six per cent bonds in which the permanent school fund may be invested? It is true that most of them now bear five per cent, and if refunded the state would pay a larger interest, but it pays it to its own people and there would be no question as to the safe investment of the funds. The constitution and the law both give the commissioner power to invest the permanent school fund in state bonds. While both provide that no investment of school moneys in farm lands shall bear a less rate of interest than six per cent, no such provision is made as to any form of bonds, but section 2 of Chapter 145 Laws of 1893 does provide that if the rate of interest upon refunding or other state bonds, held for said funds, be less than six percent, such bonds shall be sold whenever the demand for such funds for investment in farm mortgages and bonds of school corporations shall be sufficient to exhaust the proceeds of the same in any sum not less than \$25,000. It is deemed both wise and expedient that the school funds shall be invested safely, and with as much permanence as possible. I call your attention particularly to this phase of the question, hoping that upon investigation you in your wisdom will provide some law that shall meet every exigency of the case, giving greater security to the school fund, and enabling the Commissioner of School and Public Lands to execute the law without any doubt as to its provisions.

The Commissioner reports that under the provisions of chapter 128, Laws of 1895 a large amount of farm land and city property came under the control of his department, having been hid in for the state upon sales of execution issued on a judgment secured by the state against W. W. Taylor, exstate treasurer and his bondsmen. Previous to such sale said property was appraised by the Board of Appraisement, consisting of the Commissioner of

School and Public Lands, the state auditor and the county superintendent of the county where the property was located, as under the provision of law, for the appraisal of school lands. The legislature failed to make any provision for the leasing or selling of this property. The Commissioner, however, has taken the responsibility of leasing the same as far as possible, and upon the best terms obtainable. Some provision should be made by this legislature for the sale of this property where sale can be made without sacrifice to the state, either for cash or upon time, in accordance with the suggestion of the Commissioner of School and Public Lands which is certainly timely.

Your attention is most respectfully invited to the full report of the Commissioner as embodying much that is of interest to the people of the state, and especially to those who have been invested by the people with the important duty of making their laws.

PUBLIC EXAMINER.

The Public Examiner during the past two years has visited every county in the state and reports having found the books and accounts of the various county officers, with very few exceptions, well and accurately kept. During the eighteen months ending June 30, 1896, eleven new banks have been started, four state, and seven private. During the same period there were eleven voluntary liquidations, four state and seven private. There has been only one failure, a small private bank. The report is made to cover the period from January 1, 1895 to July 1, 1896 instead of from July 1, 1894 for the reason that the records of the office prior to January 1895 were incomplete. On June 30, 1896 there were in operation 80 state and 72 private banks. The Public Examiner in his report suggests that some changes be made in our banking law. While he now has authority to make an examination of a bank, his authority extends no further. The bank may be in the worst possible condition, an entirely unsafe place in which the people may deposit their money, and yet he has no power to set matters right.

While the law gives the Examiner authority to call for reports from state and private banks, it is the opinion of the Attorney General that private banks cannot be compelled to report under existing laws. Banks may begin business without authority from any state officer, and without capital and can continue in business. There are a few now in operation which do not claim to have any capital. Their number, however, is few. The percentage of bank failures during the past two years has been less than in any state in the Union, and with an average deposit of \$3,107,824.00 the loss to depositors has been less than \$10,000.

I am of the opinion that more authority should be given the Public Examiner in regard to county officers whose books he is required to examine under the law. If he finds an officer short in his accounts he can only report the matter to the Executive. The Executive can issue an order suspending the officer, but it is questionable whether he can enforce it.

Would it not be well to give the Public Examiner authority to immediately suspend the officer, and acquaint the authorities of the county with the condition of his affairs until a thorough and careful examination could be made. Of course such a law should be surrounded by provisions that will make it reasonably certain that the power given will not be abused.

The Public Examiner declares that when he took charge of the office, March 9, 1895, there was no money in the expense fund for his use, and in order that he might attend to the duties of his office, he was compelled to pay his own expenses until July 1st amounting to \$147.45. He has been faithful in the discharge of his duties, and is recognized all over the state as a competent officer and a gentleman. The money which he has expended of his own account ought to be made up to him. His report when printed, will be presented to you for your consideration, to which your attention is respectfully invited.

ENGINEER OF IRRIGATION.

The cause of irrigation has been materially advanced within the past two years. There are now about eleven hundred artesian wells of all kinds within the state, about one-half of which have been constructed during this time. Many of the larger ones are public wells which have been dug under the provisions of Chapter 103 of the Laws of 1895. The operation of this law has, however, been hindered since early in the summer of 1895, doubt having existed of its constitutionality, growing out of the decision of the United States Court in California relative to the constitutionality of their irrigation law, which was a bonding law in many respects similar to ours. The question at issue before the court has since been carried to the United States Supreme Court and the law of California sustained. A case was being prepared in our state to be certified to our Supreme Court for the purpose of testing the Constitutionality of our law, and settling any question as to the legality of the bonds. The appeal has not yet been perfected, but probably will be within a brief space of time, without the decision of the United States Supreme Court in the California case is accepted as settling all questions at issue.

The report of the Engineer of Irrigation is very complete and contains much valuable information touching not only the development of irrigation as a means of putting water upon land, but its use for running mills and for the many other purposes to which these wells are applied. The report also embraces many valuable tables, which will be of deep interest to the people.

Tables are given showing the amount of rain fall in thirteen different points in the state for each month from the year 1881 until this time. There is too much in the report to admit of extensive mention in the message. It is type written, is now in the executive office and ought to be printed. It would make a most valuable book, containing information for which frequent appeals will be made to the Executive from citizens of our own state, and from many of the other states in the Union interested in irrigation. I hope

for the reasons given that this legislature will make an appropriation and speedily print this report.

OIL INSPECTOR.

The Oil Inspector reports that during the past two years he has inspected 62,000 barrels of oil, and has rejected 265. During this time there have been periods of complaint among our people as to the quality of their illuminating oil, and the Oil Inspector in the opinion of the public has been held responsible. Serious complaints were at one time made to the Executive. Whenever any complaint has been received, it has been promptly attended by all the means in my power. Not only has the attention of the Oil Inspector been called to the complaint, but the companies who were furnishing oil to our people have also been notified of the dissatisfaction existing on account of their oil, and have been told in very plain language that a continuance of any opposition would result in an act by the legislature that would most likely be very disagreeable to them.

The Oil Inspector is powerless to do anything more than simply to test the oil as to its explosive quality. Sometimes the very poorest oil for illumination will stand a much severer test than is required by our law. If it is in your power to make some provision which will secure to our people the use of oil which shall at all times be safe and good, I hope it will be done. A public officer ought not to be blamed for anything which occurs and which he is powerless to prevent. I believe the Oil Inspector has been faithful, has tried to do his duty, and has not permitted the sale of oil in this state without inspection, or failed to call the attention of companies furnishing oil to the complaints of the people. In his report he states that he knows of not a single lamp explosion during the past two years on account of the defective quality of the oil.

MINING INSPECTOR.

The report of the Inspector of Mines shows a very encouraging condition of mining interests in the Black Hills. In the discharge of his official duty he traveled 4,124 miles, visiting all the working mines in the territory under his supervision, and declares that all are in good condition and that care has been taken to preserve the health of the miners, as well as the interests of the mines. He reports 1,927 miners as employed for 1896, which does not include men engaged at the mills, smelters, and other reduction works, and such other avocations above ground as are directly connected with and incident to mining operations. This number is 224 in excess of those employed during the year 1895.

The increase in gold product for the year 1896 over 1895 is \$1,268,675, and the outlook for the year to come, the Mining Inspector declares to be more promising than ever before. Of the 1,927 miners employed, three lost their lives while engaged in their regular duties, and four were injured to a

greater or less degree, No accidents appear for the year 1896 to be due to hoisting or other machinery.

The report, that while the development of the ore bodies, especially silicious ores, during the past year has been phenominal, yet conservatism has prevailed. There has been none of the wild speculation accompanying which has characterized mining countries in the years gone by.

The services of the Mining Inspector are valuable. Notwithstanding the great increase in mining operations, the very large number of new mines which have been opened, casualties have decreased from fifteen in 1892 to four in 1895 and to three in 1896, and this improvement is very largely due to the action of the Mining Inspector in requiring that mines shall be properly timbered, and that men shall not be required to expose themselves to danger where it can be avoided.

We are proud of our wonderful Black Hills. I regret that we are so widely separated by lines of travel. If there is any one thing which this state needs, it is a line of railroad running across it from east to west, connecting the agricultural portion of this side of the river with the Black Hills.

The report of the Mining Inspector, in manuscript, is on file in the executive office. I am sorry it is not published and a copy given to each member of this legislature. It would give our people who have never visited the Hills, and who have no conception of what that country is, at least a faint idea of the wonderful wealth which lies hidden there.

REGENTS OF EDUCATION.

The report of the Regents of Education, embracing reports from the different educational institutions under their control, shows a very satisfactory condition prevailing with the higher institutions of learning throughout our state, maintained in whole or in part at the state's expense. These schools have been visited and inspected by the Regents, as contemplated by law. These visits and inspections have been as often and as thorough as the limited, fund for expense would permit. The Regents declare that the moneys appropriated for the maintenance of the several state educational institutions have been economically and judiciously expended. They speak with pride of the fact that our state institutions of learning are held in high esteem by the best educators in other states, and that our graduates are taking rank with graduates of similar institutions elsewhere.

The State University, the Agricultural College, and the state normal schools, together with the School of Mines, have their own distinct fields of usefulness. The board has endeavored to further by legitimate means the aims and purposes of each of these institutions. In the language of the board "it has always proceeded upon the assumption that no part of the magnificent whole represented in these different educational institutions could be neglected."

Notwithstanding the great misfortune which came to the University of Vermillion by the destruction by fire in 1893 of its main building, together with the larger portion of its contents, consisting of library, laboratories, and other educational facilities, through the heroic efforts of the president and faculty, aided as they have been by the good citizens of Vermillion, the work of the institution has been carried on with signal success. The patriotic and unselfish citizens of Clay county have replaced the burned building with one much better adapted to the needs of the University. They have done this at their own expense without cost to the state, expending more than \$50,000 in its erection, nevertheless some portions of the building are still incomplete. You will be asked to make appropriation for the plumbing, for furniture, black boards, and for a boiler. The furniture required will include seating for the whole building. It is recommended by the Regents that the legislature recognize the graduates of our State University who have taken a special course in Pedagogy, allowing them to teach in our high and graded schools throughout the state without examination. This is said to be the practice in the older states, and it is declared that we lose some of our brightest students who leave our University to enter junior and senior years in other state universities where after graduation their diplomas are recognized in the manner indicated.

The regents report with pleasure that they are able to give a good report of the School of Mines. In their own words they say: "This school is growing in the estimation of its patrons, the attendance is increasing and much valuable work is being done in the interests of mining and metallurgy. The special course in assaying is proving an attractive feature, and large classes are availing themselves of its opportunities.

It is thought desirable to broaden the curriculum of this institution so that studies of a more general nature, but still allied to mining interests, may be offered to the residents of the mining districts of the Black Hills region. In the opinion of this board this broadening should be encouraged for the reason that the school and its patrons are somewhat isolated, and for the more general reason that it seems a necessity that the school be able to give instruction in subjects pertaining to a general education necessary to a more complete mastery of the technical purposes for which the school was founded."

The Normal Schools at Madison and Spearfish were never in as good a condition as now. They have been eminently prosperous during the last two years, and their prospect for the future is gratifying to the friends of education throughout the state.

I have the honor in this connection to present the report of the Citizens Committee relating to the construction of the Normal School building at Springfield, in Bon Homme county. Also the report of Secretary of the Board of Trustees, created by the Board of Regents, which reports were not received by the Board of Regents in season to be embodied in their report to the executive.

"To the President and Board of Trustees of the Springfield Normal School:

Gentlemen:-We, the committee appointed by the citizens of Springfield and vicinity to raise funds and erect a suitable building for normal school purposes, and said building being practically completed and paid for, beg leave to submit the following report: On February 17th, 1896, a meeting of those interested was held at which J. L. Turner was elected chairman and E. L. Culver secretary. It was the unanimous sense of the meeting that we proceed to erect a building on the land owned by the State, for normal school purposes.

And at a meeting held Feby. 24th, E. J. Monfore, J. L. Turner and Geo. W. Snow were appointed a committee to take charge of the funds and construct and complete such buildings for normal school purposes as may be agreed upon. This committee met and organized April 1st by electing J. L. Turner president, Geo. W. Snow secretary and treasurer, E. J. Monfore solicitor and collector. We have made contracts, procured material and erected a building, which in our judgment would be best suited to the purpose for which it was designed, and to come within the limits of the amount of money, labor and material available.

We procured plans of Mr. W. L. Dow, architect, of a building, consisting of main center building, with a wing on each side, one of which wings is now completed and ready for occupancy, and is also free from debt of any nature. The building is of Sioux Falls jasper and trimmed with Black Hills red sand stone. It is 39x75 feet, with 8 foot basement under the entire building. Two stories of 12 feet each, the lower containing five rooms exclusive of hall, vestibule and cloak room, and three rooms on second floor exclusive of hall and cloak room.

Arrangements are made for a complete system of heating and ventilating. Inside doors are provided with transoms, and all material and workmanship of the best to be had. For fuller information please see elevation and floor plans herewith. The committee acting for the citizens of Springfield and vicinity, with such others as have kindly aided in the construction of this building, now wish to turn it over to you completed and paid for, to be in turn by you delivered to the care and custody of the Honorable Board of Regents of Education, as the property of the state of South Dakota, for normal school purposes, under such conditions as shall be for the best interests of the school and all concerned.

We beg to assure you in our judgment there is no public building in the state that has been erected with more care, and wherein better material has been used, nor more competent labor employed than in this. And we trust in your hands it may prove to be one of the best institutions in the state.

By the Committee:

J. L. TURNER, President,

GEORGE W. SNOW, Secretary and Treasurer

E. J. MONFORD, Solicitor and Collector.

Dated Tyndall, South Dakota, Nov. 24th, 1896.

To the Hon., the Board of Regents:

Gentlemen:-As Secretary of the Board of Trustees of the Springfield Normal School, I have the honor to enclose herewith the report of the committee appointed by the citizens of Springfield to construct a building for normal school purposes, which report is referred to and made a part hereof.

I also, under separate cover, enclose you the plans and specifications for the building. This Board of Trustees further reports to you that the building is of Sioux Falls jasper, trimmed with Black Hills red sandstone; is thirty-nine by seventy-five feet, with basement under the entire building; two stories of twelve feet each. The lower story contains five rooms, exclusive of hall, vestibule and cloak room, and there are three rooms on the second floor, exclusive of hall and cloak room.

This building is completed, has cost \$10,000, and has been turned over to this board, and this board now reports the same as the property of the state to your board, free of encumbrance, subject only to the condition that it shall be used for Normal School purposes. It is further recommended by this board that this school have a small appropriation sufficient at least to furnish it and maintain it for the coming two years. In this connection will say, there is no doubt of there being a good attendance if an appropriation is made.

Hoping that this report will reach you in time that it may be included in your report to the Governor.

Respectfully submitted,
J. D. ELLIOTT,
Secretary.

Reference to these reports will show that the good citizens of Springfield, in BonHomme county who have been so ardently anxious for the establishment of this school, have erected at their own expense what they declare to be a very creditable Normal School building upon land deeded to this state for that purpose. It will be remembered that the Normal School at Springfield was the first Normal School ever established under territorial law. No appropriation, however, was ever made and no provision for the maintenance of such a school, until the donation of land by the last legislature, it is eminently proper that you should consider the request for at least a limited appropriation of money for the maintenance of the Normal School at this place. It is reasonably believed that the patronage it will receive will justify such appropriation.

I am very glad to be able to say to you that the Agricultural College at Brookings, after the vicissitudes which have attended it ever since statehood, is at last in a hopeful condition with every promise which could be desired of bringing to the people what they have so long hoped for. It should be not only the school of the people, but eminently successful in carrying out the purposes for which it was created. For the first time in years, there is absolute harmony. The president of the institution carries with

him, not only the respect and confidence of the young men and young women who have been under his tuition, together with the people who have made his acquaintance since he has been a citizen of our state, but the regents feel that they have been extremely fortunate in securing the services of a man who possesses the qualities of head and heart which fit him especially for the position which he holds.

It would be both disagreeable and unnecessary to give this legislature a full history of the controversy which has been carried on during the last few years over the management of the Agricultural College. It has been a constant source of regret to the Executive that this controversy seemed in any sense necessary, but he could not consent that this school, very largely maintained by the general government and which ought to be one of the best schools in the United States, embracing as it does with the ordinary curriculum of a College, the industrial features which make it distinctively the school of an agricultural people, should be destroyed. The Board of Regents in deciding upon the settlement of this controversy, have acted conscientiously and intelligently. They have not in the opinion of the Executive permitted their judgment to be swerved by any personal considerations, and I feel that they have occasion to congratulate themselves and the people of the state, that we may at least reasonably hope to see the people relieved from any further anxiety on account of this school by reason of any unseemly wrangle, or any failure upon the part of the president and other members of the faculty, to discharge in a manly way the duties to which they have been appointed. Under the control of Dr. J. W. Heston, now the president of this college, the fall term was eminently successful, the attendance exceeding by more than fifty per cent. the attendance of the same term a year ago.

The special winter term which is now being held, at nominal expense, for the instruction of young men and young women who cannot attend the ordinary terms of the school, is gratifying in the extreme, especially as to numbers. The instruction is given by the professors of the college gratuitously in excess of the duties required by the governing boards in the regular college course. I sincerely hope that all controversy as to this school is ended, and that the wishes of the good people of the state who regard its welfare as superior to any man's personal ambition may be realized.

Extended report of the president of the University, the Normal Schools, the Agricultural College and the School of Mines is embraced in the report of the regents. Also of the State Geologist and the lately received reports in reference to the Springfield Normal School, all of which will be shortly printed and placed upon your desks.

I desire to suggest as to the Agricultural College that in as much as its maintenance comes so largely from the general government, the suggestions of the Board of Regents as to appropriations which may be asked for securing increased facilities, is worthy of your careful consideration.

BOARD OF CHARITIES AND CORRECTIONS.

I am glad to report that the management of our Penal and Charitable Institutions during the past two years has been under the circumstances, all that could be desired. The report of the board of Charities and Corrections, now in the hands of the printer together with the reports of the heads of the different institutions, while it contains much that will not only be of interest to you but which you must know in order to make such provision as in your judgment will be necessary for the ensuing two years can only be obtained by a careful perusal of their report when printed. These reports are too voluminous to be embraced to any considerable extent within the limits of a message.

INSANE ASYLUM.

On June 30th, 1894 there were in the Hospital for the Insane 361 inmates, 224 men and 137 women. There have been admitted during the past two years 130 men and 91 women, making a total of 354 men, and 228 women, or in all 582 inmates treated during this period. Of these, 31 men and 33 women have been discharged as cured. There were discharged in other conditions 70 men and 36 women, leaving in the hospital June 30, 1896, 253 men and 159 women, or a total of 412. During the first year ending June 30, 1895 there were 105 admissions, 35 recoveries and 19 deaths. During the second year, 116 admissions, 37 recoveries and 33 deaths. The total increase during the two years is 51, and while this number is much below the expectation of the superintendent, it is accounted for by certain facts set forth in his report to the board of Charities and Corrections.

PENITENTIARY.

There were in the Penitentiary on the first day of July 1894, 117 prisoners. There have been received during the two years ending June 30th, 1896, 174, making a total from July 1, 1894 to June 30, 1896, 291. There was released during these two years 158, leaving in confinement on June 18, 1896, 133. A very complete account of the management of the Penitentiary in all its details is furnished by the Warden to the board of charities, and will be embraced in their report. Every item of expenditure is given and every cent accounted for. Also itemized accounts of the products of the farm, of the animals which have been fattened and killed for the use of the inmates. A careful account has also been kept of everything which has been sold.

REFORM SCHOOL.

There were in the Reform School on June 30, 1894, 87 children, 65 boys and 22 girls. Seven of these children were from the state of North Dakota, leaving 80 children belonging to our state. There are now 88 children in the school aside from those of North Dakota, making the number in the institution from the state proper one more than the entire attendance two

years ago. Entire satisfaction with the management of the Reform School is felt by those of our people who are acquainted with Captain Ainsworth and his methods. He is especially well fitted for his work, and is accomplishing for those who are placed under his control all that can reasonably be expected.

SCHOOL FOR DEAF MUTES.

Number of pupils who have been in attendance at the School of Deaf Mutes is 49, with an average attendance of 45 at each term. Very few new pupils have been received. The superintendent informs the board of charities that he has the names of over 20 children for whom admission will in the near future be asked. The admission of new pupils will of course increase the cost of maintenance, for the support of which, additional appropriation will be asked. I feel that I am justified in saying that our Penal and Charitable Institutions, as at present conducted, are models of their kind, and I respectfully invite your careful consideration of the complete reports from these different institutions.

BOARD OF HEALTH.

The State Board of Health reports the general health of the people during the last two years to have been good, and outbreaks of communicable diseases to have been few, limited to small areas, and unusually easy of control. With the single exception of Lead City in Lawrence county, the state has been remarkably free from typhoid and allied forms of fever. In localities there have been a few cases, but as a rule the disease has not been prevalent in any one locality to any considerable extent. The epidemic in Lead began about the middle of August and increased materially until about September first, when the outbreak became so general that scarcely a home was without its victim. This condition of affairs was reported to the State Board of Health about the middle of September. Dr. J. W. Freeman, with the assistance of the city authorities upon investigation found the chief source of infection to be the water supply. To correct as far as possible the source of danger, they compelled the inhabitants to boil water for domestic purposes, as well as milk.

Consumption has made a slight increase, this disease is becoming more frequent among people and domestic animals. Deaths have occurred in sufficient numbers and in cases where the cases developed here leads the State Board to feel that despite our most favorable climate, this disease may require unusual attention. It occurs most frequently among our Indian population, no doubt because of poor sanitary surroundings and almost entire ignorance of preventive measures. Advanced knowledge of the disease proves it to be communicable and that both man and animals are affected and may easily communicate it. A case has been reported to the Board of Health where the milk of a supposed healthy cow was being used as the food for two

children. On examination by the Bureau of Animal Industry, the animal was pronounced to be diseased with tuberculosis.

The Board declares that a thoroughly organized veterinary department, working in conjunction with this board with rigid laws, and heavy penalties for the sale of diseased meats, will be important steps in lessening the spread of the disease.

I regret not having received the report of the State Veterinarian in time to embody it here. Our present Veterinarian is a competent officer. The rapidly growing stock and dairying interests of our people demand the best Veterinarian who can be obtained, and he ought to be well paid. There is no longer any room to doubt the presence of tuberculosis among domestic animals. Neither does any intelligent man doubt the infectiousness of milk. Our State Veterinarian during the past year visited a herd at the Agricultural College, and pronounced some of the animals there infected with tuberculosis. They were afterward killed, and though fine looking animals, were found to be badly diseased. We do not want to use milk from diseased cows, neither do we want to eat diseased meat. I hope in your wisdom you will make a careful study of this matter and make such provisions for the Veterinarian as will justify a skillful man in accepting an appointment under our law, and giving his whole time and attention to the stamping out of disease wherever it is found.

BOARD OF PHARMACY.

Under the strict examination required by the Board of Pharmaceutical Examiners, the pharmacists of this state are coming to occupy a position of great excellence. Several young men of the state have been granted certificates having passed most creditable examinations during the past two years. You do not need to be told that men whose duty it is to prepare medicine for use in our families ought to be thoroughly acquainted with their business. A small appropriation ought to be made and given to the Board of Pharmacy for its use in prosecuting violations of the law. There are several instances where the law is being violated, but which the Board of Pharmacy is unable to prosecute for want of funds. They have heretofore assessed upon the pharmacists of the state \$3.00 each year to be used in this way. This money is not sufficient, and the small amount required in the prosecution of these cases ought to be provided by the state.

RAILROAD COMMISSIONERS REPORT.

The report of the Railroad and Warehouse Commissioners embraces in a very complete form, the usual amount of information touching the railroads operating lines in this state.

They make no recommendations as to needed legislation. I have always been of the opinion that no interest in the state should be superior to the interests of its citizens, and that the law should deal justly with all classes of property, to the end that the interests and rights of all might be pre-

served. I took occasion to say to the legislature two years ago that while I was aware that whoever would lead a war upon corporate interests would achieve for himself temporary popularity, that no popularity is lasting which is not based upon justice. I still believe the same, and I do not believe that what will be called radical railroad legislation is what is demanded by our people. I am not an advocate of railroads, or of any corporation and would be glad to see such laws enacted as would hold them to strict accountability and bring to the people relief where relief is demanded. We are sadly in need, however, of more railroads for the accommodation of the people in many sections of the state, and we have been earnestly striving during the past two years to secure the building of a railroad through the state from east to west. I had the honor of being one of a party visiting Minneapolis and St. Paul and presenting to the people there some of the reasons which should stimulate them to join with us and help to build this road. We have been hoping to accomplish in the near future what is so much desired by our people.

I cannot believe that it is good policy to enact stringent railroad laws, such as very properly apply to older states with commercial centers of their own to which the products of the people go to find a market, and from which they draw their supplies, neither are the people looking for legislation of this character. They want justice and justice only. You ought to endeavor by all means in your power to secure to them their rights. This can be done without such acts as work an injustice to railroads already in operation, or will serve to intimidate capital and hinder further investment in railroad enterprises within our borders.

The Railroad Commissioner's typewritten report is now on file in the office of the Executive, and can be examined at any time.

THE NATIONAL GUARD.

The last legislature failed to make any appropriation for the maintenance of the National Guards, other than \$300 per year for the Quartermaster for the care of the property in his control, and the ordinary discharge of the duties of his office. After the close of the fiscal year ending July 1, 1895, a circular letter was addressed to each company of the Guards, giving them the option to continue in the service at their own expense or disband. With the exception of the companies at Mitchell and Redfield, they decided to maintain their organizations and pay their own expenses. Later the company at Webster was mustered out. Companies were organized at Bryant and Canton in the place of the companies at Mitchell and Redfield.

At the very earnest solicitation of the citizens of Custer a company was also organized there, and another has since been organized at Huron, but in every instance where these organizations have been perfected the companies have signed a written agreement that the state should not in any sense be held responsible for any portion of their expenses until an appropriation was made by the legislature for their maintenance.

Many people are disposed to look upon the National Guard as an expensive and altogether unnecessary luxury. President Cleveland in his late message, referring to the National Guard, says:

"The entire army has now been equipped with the new magazine arms, and wise policy demands that all available" public and private resources should be so employed as to provide within a reasonable time a sufficient number to supply the state militia, with these modern weapons and provide an ample reserve for any emergency. The organized militia numbers 112,879. The appropriations for its support by the several states approximate \$2,800,000 annually, and \$400,000 is contributed by the general government. Investigation shows these troops to be usually drilled and inspired with much military interest, but in many instances they are so deficient in proper arms and equipment that a sudden call to active duty would find them inadequately prepared for field service. I therefore recommend that prompt measures be taken to remedy this condition, and that every encouragement be given to this deserving body of unpaid and voluntary citizen soldiers, upon whose assistance we must largely rely in time of trouble."

The report of the Quartermaster General, published in pamphlet form, giving estimate of the appropriation which will be asked of you for the maintenance of the militia for the next two fiscal years, is submitted without comment. At the earnest solicitation of the Guards I asked of the Secretary of War that First Lieutenant A. S. Frost, of the 25th Infy., formerly instructor of cadets at Brookings College, be detailed to report to me and be for the time being attached to the staff of the Governor, to drill and inspect our National Guard. The request was very promptly complied with. Lieut. Frost is now here for that purpose. For the last few years it has been the practice of the War Department to detail officers of the regular army to be stationed in states where National Guard is maintained, with a view of giving the guard the best possible instruction, that our citizen soldiery may be raised to a high degree of efficiency.

The section of land upon which the Ft. Sisseton buildings are situated, originally given to the state under an act of congress for muster ground for troops, has been patented to the state. It is now our property. There are many brick and stone buildings which if left to themselves in a few short years will tumble down and become worthless, unless they are improved and carefully cared for at the state's expense. Something ought to be done with this property. Most of the buildings had better be sold. I hope you will make some provision for its disposition, and save my successor the necessity of having to care for property which he knows is rapidly going to waste, and still be powerless to prevent it.

PARDONS.

I have granted the following pardons: To Charles Nash who was adjudged guilty of contempt by the Honorable E. G. Smith of the First Judicial Circuit of this state for selling intoxicating liquors in Union county,

contrary to the order of injunction which had been issued and served upon him prior thereto. He was sentenced to imprisonment in the county jail in Union county for the period of sixty days, and to pay a fine of \$100, in default of the payment of the fine to be imprisoned for the further period of fifty days. He was pardoned on the 4th day of February A. D. 1895 in response to a numerously signed petition declaring that during almost the whole period of his confinement, he had been dangerously ill as attested by the certificate of Dr. L. M. Mulcahey. The petition was liberally signed by the officers of Union county, and the good citizens of Elk Point, supported by a personal letter of Hon. E. G. Smith, the judge before whom the prisoner was tried.

Joseph Spain who was at the April term of the circuit court in and for Hand county in the year 1894 convicted of the crime of assault with the intent to commit rape, and was on the second day of May, 1894, sentenced by the court to one years imprisonment in the state penitentiary at Sioux Falls, and was on the 3rd day of May committed to said prison. The petition presented asking for his pardon was signed by the good citizens of Hand county, and endorsed by the Hon. Loring E. Gaffy, the judge before whom the prisoner was tried, and who pronounced sentence upon him. It was presented in the petition that the prisoner had a wife, who is in ill health, and three little children, all of whom were practically objects of charity and need such help as the father might be able to render. He was pardoned on the 19th day of February, A. D. 1895.

George W. Mapes, convicted of grand larceny on the 19th of November, A. D. 1894 at the regular term of court held in and for Codington county and sentenced for the term of twenty-two months in the penitentiary at Sioux Falls. The application asking for his pardon was very numerously signed by the good citizens of Codington county, six of whom were jurors at the trial. The petition was also accompanied by a letter from the prosecuting attorney and the Hon. J. O. Andrews, judge of the court before whom the prisoner was tried. The honorable judge in his letter declares that the said Mapes had heretofore borne a good character, that this seems to be his first offense, that his parents are old and need his services at home. The belief was expressed that the punishment which the young man had received would be sufficient to restrain him from further wrong doing. He was pardoned on the 7th day of April, A. D. 1895.

Conrad Sauer, who on the 13th day of February, A. D. 1895, before the Honorable Circuit. Court in and for Day county, plead guilty to the crime of grand larceny and was sentenced by the said court to a term of one year and six months in the penitentiary at Sioux Falls. It was set forth in the petition that while the prisoner plead guilty, that he was the youngest of three parties implicated in the theft. It was also expressed by the petitioners that after a careful consideration of all the matters presented to the court, they were of the belief that the prisoner was led into the commission of this

offense by his partners in the crime, that he had a wife and three children in destitute circumstances who need his labor, that he had a daughter wt. was believed to be dying of consumption and who wanted her father. Tl. petition was signed by the parties from whom the property was stolen, an by many others of the good citizens of Day county who are personally know to the Executive. He was pardoned on the 18th of April, A. D. 1895.

John West, who was sentenced by the Honorable Circuit Court in an for Hutchinson county, at the November term A. D. 1894, for the crime e selling diseased and unwholesome meat, for one year in the penitentiary. The petition asking his pardon was very numerously signed by the goo citizens of Tripp, and the immediate neighborhood in which the said John West had his home at the time of his trial and conviction. It was also signed by eight of the twelve jurors, and the opinion expressed by the goo citizens who understood the facts, that if the other jurors had been approached, they too would have signed the petition. The Hon. E. G. Smith, who pronounced the sentence, expressed the belief that the punishment which the man had already received was sufficient and that the purpose c the law had been accomplished. He was pardoned on the 9th day of May A. D. 1895.

Frank V. Tenney, from Turner county, who was sentenced to the penitentiary for one and one-half years for burglary. The petition was very largely signed by the good citizens of Turner county, who declared thE they were well acquainted with the said Frank V. Tenney and his crime He was pardoned on the 9th day of May, 1895. His term would have expired in eleven days.

John H. King, who was on the 18th day of January, 1894, convicted c grand larceny in the Circuit Court in and for Meade county, and sentence to the penitentiary at Sioux Falls for the term of one year and nine months. The petition asking for his pardon was very numerously signed by the goo citizens of Meade county, including many of the jurors before whom he wa tried. He was pardoned on the 11th day of May, A. D. 1895,

Herbert H. Hill, tried at the September term of the Circuit Court within and for the Sixth Judicial District for the crime of grand larceny, o: the 17th day of September, 1894, was sentenced by the Hon. Loring E. Gaffy Judge of the Sixth Judicial Circuit in and for Stanley county, to be confines in the penitentiary at Sioux Falls for the term of two years. The petition presented asking for his pardon was signed by fifty-eight of the good tits zens of Stanley county, including two of the county commissioners, part a the grand jury before whom the said Herbert H. Hill was indicted and b., the jury before whom he was tried. It was represented in the petition that he was a young man, that up to the time of the commitment of this crime he had borne a good reputation, that the jury in convicting him had recommended him to the clemency of the court on account of the circumstance surrounding the case. The opinion was expressed that if he be pardoned

he would return to his mother who needs his services, and would thereafter be a law abiding citizen. He was pardoned on the 20th day of July, A. D. 1894.

Joseph Frogley, was tried before the Honorable Circuit Court of the Seventh Judicial Circuit, and on the 23rd day of February, 1892, having plead guilty to forgery, was sentenced to the penitentiary for one year. On the 11th day of October 1892, he was given his liberty on parole. It was represented to the Executive that the conduct of Frogley ever since his discharge from the penitentiary, had been good. It was also presented that there were grave doubts of his guilt, that he himself declared his absolute innocence but which he was unable to prove, and he also asserted that he plead guilty upon the recommendation of his attorney, who told him the judge would only give him a county jail sentence. Reputable citizens of Spink county, where he lived, petitioned the Executive for his pardon. It was asserted that he looked forward to his restoration to citizenship as he would hope for his freedom if in confinement. He was pardoned on the 23rd of November, 1895.

George Schmidt, who was sentenced by the Circuit Court in and for Davison county to sixty days imprisonment in the county jail, and to pay a fine of \$100 for contempt of court for retailing intoxicating liquors in disobedience to injunction. The petition declared that if the said Schmidt was released he would leave the country, also that the prisoner was in bad health, subject to epileptic fits. A letter from the Hon. D. Haney, judge of the Circuit Court before whom the prisoner was tried accompanied the petition, in which the honorable Judge declared that in his judgment it might be well to pardon him. He was pardoned on the 7th day of December, 1895.

Sid Morgan, a boy of about sixteen or seventeen years, who was tried in December, A. D. 1894, in the Circuit Court in and for Meade county, before the Hon. A. J. Plowman upon the charge of having stolen a satchel from a car, to which charge he plead guilty, and was sentenced to the penitentiary at Sioux Falls for one year and a half. Numerous petitions were presented asking for his pardon. They were accompanied with a letter from the honorable Judge who pronounced sentence upon the boy, in which he said, that in his judgment, pardon should be granted. That he promised at the time of sentence that if a good report was sent by the warden for one year, that he would ask his release. He also said he would have made the sentence shorter, but could not do so under the statute. Facts were presented to the Executive, that up to the time of the commitment of the crime, he was a good boy, that his mother died during his infancy and that he had needed her care during his childhood days. He was pardoned on the 17th day of December, 1895.

Edward McNab, who was sentenced by the judge of the Eighth Judicial Circuit of the state of South Dakota within and for Lawrence county on the 19th day of October, 1895, for the period of one year, upon the charge of

grand larceny. The petition presented set forth that the parents of thE, said Edward McNab were very reputable people, residing in Deadwood, where they had lived for several years. It was further set forth that thE, crime for which he was sentenced was alleged to have been committed b3 himself and William L. Spatde, that the crime was not of McNab's own seeking. It was further declared that he admitted his crime, plead guilty and testified against those who were jointly charged with him, giving all data in connection with the alleged offense. The petition was signed by a, very large number of the good citizens of Lawrence county. He was par, doned on the first day May, A. D. 1896.

Gustaf Koski, who was confined in the county jail at Deadwood oa thE; 20th of February, 1896, to serve a term of 180 days at hard labor under the sentence of court for the crime of assaulting with a dangerous weapon. ThE' petition asking for his pardon was very numerously signed by the good citizens of Lawrence county, and especially of Lead City where the said Gusta E Koski had Iris home. It was presented to the Executive that he had a wife and children dependent upon him for their support, that the crime of which he was guilty was committed in a moment of excitement and passion, that ii, was not in any sense premeditated, but was provoked. He was pardoned on the 2nd day of May, 1896. E

Joseph Reath, who was sentenced to the penitentiary for a term of sill months for burglary, by the honorable judge of the Circuit Court in and fore Lake county, on the 20th of February, 1896. The petition asking for hiii pardon was signed by nine of the jurors before whom the said Joseph Heath was tried, by the states attorney, by the clerk of court and by the Hon. J W. Jones, the judge before whom the prisoner was tried, and who imposed the sentence. It was also signed by a large number of the citizens of Lake(county, with whom the Executive was personally acquainted and in whom he places confidence. It was declared that the said Reath had heretofore borne a good character, that there were very serious doubts of his guilt ill connection with the crime with which he was tried, that he was old and ha<(an aged wife living on a farm in Lake county who needed his assistance(He was pardoned on the 8th day of June, 1896.

William Elgie, who was convicted of the crime of grand larceny at th` June term of the Circuit Court 1895, in and for Faulk county, and was sentenced by the Hon. Loring E. Gaffy, judge of the said court, to two years il f the state penitentiary at Sioux Falls. The petition presented was an extensive one, signed by a very large number of citizens of Codington and Clark counties where the said Elgie formerly resided, and where he was well known, and by the citizens of Faulk county where the crime was said td have been committed. The petition was signed by eleven of the jurors, whit found him guilty of the crime with which he was charged. It was declare in the petition that he had a family consisting of a wife and eight children' the youngest of whom was one and a half years old, the eldest a boy 19 years

old and a cripple, that his family sadly needed his assistance for their support. It was not plead that he was innocent of the crime, but the belief was t(expressed that he had been sufficiently punished, and the petitioners prayed he might be pardoned, and restored to his family. He was pardoned on the 7114th of July, A. D. 1896.

David Nickerson, who was convicted of the crime of grand larceny on the 7th day of June, 1895, at the regular term of the Circuit Court of the Third Judicial Circuit held in and for the county of Codington, the Hon. J. T-O. Andrews, judge, and by said court sentenced to imprisonment in the state penitentiary at Sioux Falls for the term of eighteen months. It was '(respectfully presented to the Executive that the said Nickerson, previous to '(the commission of the crime with which he was charged, had been a good 'f boy, that he was obedient and industrious, trustworthy and honest, that his ti father and mother were good people, that the boy had had good training, a and that it was a terrible shock to his parents when they heard of their ((son's misconduct. The application further stated that the said Nickerson 21 was indicted jointly with one Thompson, that none of the stolen property was found in the possession of the boy. It was also set forth,that his parents, 't then citizens of North Dakota were old, and sadly in need of his services to as sist them in making a livelihood. The belief and hope was expressed that if h pardoned, his punishment would be sufficient to restrain him from the further commitment of crime. The petition for his pardon was signed by not less than nine of the jurors before whom he was tried, and by many of the good citiizens of Codington county. He was pardoned on the 14th day of July 1896.

Thomas Bluecloud, who was tried upon the charge of assault with a dangerous weapon with intent to do bodily harm, before the Honorable Circuit Court in and for Roberts County, and on the 15th day of June, 1896, was sentenced by the court to imprisonment in the county jail for the period of ninety days, and to pay a fine of \$100. The petition stated that the fine had been paid, and that the confinement in the county jail began on the 15th day of June. A certificate of A. E. Taplin, practicing physician of Roberts county, duly licensed under the laws Qf the state, set forth that the said Thomas Bluecloud was in very bad health, and that longer confinement would be dangerous. The petition was numerously signed by the good citizens of Roberts county, who expressed the belief that if pardoned, he would ever after be a good citizen. He was pardoned on the 15th day_ of August, ,n A. D. 1896.

Charles Demick, who was tried in the Circuit Court in and for Lake county at the February term A. D. 1896, upon the charge of burglary, found guilty and sentenced to the penitentiary for the term of one year. The petition presented asking for his pardon was signed by eleven of the jurors before whom he was tried, by a very large number of the best people of Lake „county who were acquainted with Demick and with the circumstances, and also by the Hon. J. W. Jones, circuit court judge before whom the case was

tried, and who pronounced sentence. The petition set forth that the prisoner had a wife and six children living in the city of Madison, the youngest of the children being two years of age, and the eldest 13; that the wife and mother was a respectable, hardworking woman; that they were very poor and that they were being supported by the assistance which came to them from Lake county. It was also set forth that Demick had been an industrious man, a kind husband and father, and the pardon was asked that he might go to work in the harvest fields and earn something to provide for his family during the coming winter. He was pardoned on the 17th day of August, 1896.

Charles Roethler, who was indicted for grand larceny at a term of the District Court held at Chamberlain, in Brule county, beginning July 9, 1886 the Hon. A. J. Edgerton, presiding judge, on the 14th day of July of the same year was tried before a jury and convicted, and on the 16th day of the same month was sentenced by the said Judge Edgerton to be confined in the territorial penitentiary at Sioux Falls, at hard labor for the period of two years, and who had been discharged on the 17th day of March, 1887 because of the expiration of his sentence—having earned the good time allowed by law. The petition was presented asking for his pardon that he might be restored to citizenship. It was represented to the Executive that the said Charles Roethler was then living in Lyman county, was the head of a family consisting of a wife and little children, that he was a member of the township school board in the town in which he lived, also one of the road supervisors of his district, that he held a farm taken as a homestead that he was an honest, faithful, hardworking citizen, temperate and well regarded by his neighbors. He was pardoned on the 14th day of October A. D. 1896.

In every instance in which a pardon has been granted, the Executive has been in possession of evidence furnished by the warden of the penitentiary, that the party for whom pardon had been asked, had been well behaved during his confinement.

SOLDIER'S HOME.

The report of the Commissioners of the Soldiers' Home, accompanied by the report of the Commandant and other officers, shows this Institution to be in excellent condition, and the management to be all that could reasonably be asked. There has been expended during the last two years \$3,755.93 in permanent improvements as follows;

IMPROVEMENTS.	AMOUNT.
For a library building which was sadly needed.....	\$ 863 66
For a barn.....	546 27
For a hog house.....	35 00
For carpenter's shop.....	381 00
For cold storage.....	305 00
For a water tank	137 00
For repairing boilers.....	280 00
For fire escapes.....	100 00
For hose for protection against fire.....	125 00
For new flagging walks	75 00
For scrubbing, calcimining, papering and repairs.....	600 00
For sewer and hot water pipes.....	278 00
For reading and library room	30 00
Total.....	\$3,755 93

It is declared that all these improvements are of a permanent nature, and were absolutely necessary. They have been provided at the least possible cost, and are, in the judgment of the Commandant, in the line of strict economy, considering the benefits they bring to the institution. In addition to the extraordinary expenses already given, they have been obliged to purchase twenty-five single iron bedsteads with mattresses, sheets, pillows, one hundred new blankets, nine three-quarter iron bedsteads for the hospital with full equipments. Large amounts of sheeting, toweling, dishes and other supplies of a more or less permanent nature have been added. Full repairs and supplies for wornout furniture have been provided. The Commandant declares that the furniture and equipment of the Home are better now than in any former period of its history. He also says, the chief resort of the members of the Home is the library and reading room, and regrets there is not a fuller and better selection of books for their use. All the books they now have, were donated by liberal people which gives the collection a miscellaneous character. If the legislature should see fit to make a small appropriation for the purchase of books for the library in the Soldiers' Home, it seems to me it would be a very proper thing to do.

I give you here the language of the Commandant in his report to the commissioners in regard to the only vexed question with which Soldiers Homes always have been, and perhaps always will be troubled: "The ever troublesome pension question in the Homes of the country is with us. The total amount received during the year by members was \$14,532.00. Of this amount I estimate one third was sent to dependents, one third was spent for the personal use of the owner, and the remaining one third was wasted for drink and gambling. No one question is so hard to solve about the Home as this waste of pension money. It is held by the pension law as a sacred fund,

and only the pensioner has any right to choose its disposition. Seveneights of the trouble about the home comes from drunkenness, and all the drunkenness comes from the pernicious use of pension money. I recommend that your honorable board consider this matter carefully and act decisively."

The surgeon's report accompanying the report of the commissioners, says: "Number in hospital June 6, 1895, 9; number admitted during the year, 38; total number treated during the year, 47; number died in the hospital during the year, 2; number discharged during the same period, 37; number present June 6, 1896, 8; total for the year, 47; average number present in the hospital during the year, 9; number of persons treated at sick call but once during the year, 142; number of prescriptions issued, 1501; number of operations performed, 22; number of patients given electrical treatment, 14. The general health of the Home during the past year has been excellent. There have been no epidemics or cases of infectious diseases. The death rate has been low, being but three deaths altogether, one by suicide and the other two from incurable fatal disease. This is remarkable when it is remembered that this is among a body of men whose average age is over sixty years.

The average number present in the Home during the year was 126; average cost of rations for each day, 191/4c; average cost per capita for the year, \$178.00; number cared for during the year, 246; members admitted to the Home from July 1, 1894 to July 1, 1895, 66; members from July 1, 1895, to July 1, 1896, 73; total members admitted from November, 1890 to date, 420; members discharged from 1890 to July 1, 1896, 175; number of members dishonorably discharged, 8; number of members discharged upon their own request, 20; number of members absent without leave, 24; number of members died while at the Home, 37; number of members present and absent, 156; total number admitted and cared for, 420.

Members present June 30, 1895, 100; present and absent June 30, 1895, 155; members present June 30, 1896, 125; present and absent June 30, 1896, 156; members admitted since June 30, 1895, 73; readmitted since June 30, 1895, 17.

Number of members receiving a pension, 120; amount of pensions received, \$14,532 per year. There has been received from the general government from July 1, 1894 to July 1, 1896, \$21,702.53 for the maintenance of the Soldier's Home, which has been covered into the treasury, and for which I have the treasurer's receipt.

The following estimate of expense necessary for 1897-8 is presented by the Commissioners:

ITEMS.	AMOUNT.
Salary of Commandant.....	\$1,000 00
Salary of Matron.....	300 00
Salary of Engineer and Assistant.....	900 00
Salary of Surgeon.....	700 00
Salary of Adjutant.....	400 00
Salary of Quartermaster.....	400 00
Salary of Cook and Assistant.....	800 00
Salary of Sergeant.....	200 00
For laundry.....	500 00
Salary of Night Watch.....	150 00
Salary of two teamsters, at \$150 each	300 00
Salary of two table waiters.....	240 00
Salary of two men of all work	240 00
Salary of mail carrier.....	100 00
Salary of hospital cook.....	180 00
Salary of hospital nurses.....	500 00
For fuel and lights.:.....	2,725 00
For water contract	800 00
For clothing.....	2,000 00
For beds and dishes.....	500 00
For hospital supplies.....	600 00
For repairs, plumbing, etc.....	800 00
For hay and feed.....	700 00
For incidentals.....	300 00
For telephone.....	36 00
For maintenance.....	14,000 00
For engine house repairs.....	375 00
Deficiency	357 15
For new water supply, deep well pump, pump house, piping and Tank.....	1,300 00
For fixing roads and grounds.....	500 00

The same appropriation is asked for the years 1898-9 with the addition of \$1,000 to maintenance, less special appropriations for 1897, with \$2.500 added for Commandant's house and offices. I present you these estimates as they have come from the Board of Commissioners. The state has never made a necessary appropriation for the maintenance of the Soldiers' Home grudgingly. It is not looked upon as charity, but as a partial discharge of a debt to a class of men who in a very few more years, will cease to be the recipients of the state's bounty.

The government reimburses the state to the extent of \$100 per capita per year for each member of the Soldier's Home. The report of the Commissioners and the officers of the Soldier's Home, mostly in manuscript, is on file in the Executive office. It is not printed and cannot be until an appropriation is made for that purpose.

JOINT COMMISSION FOR THE ESTABLISHMENT OF A BOUNDARY
LINE BETWEEN NEBRASKA AND SOUTH DAKOTA.

The last legislature, chapter 113, laws of 1895 by preamble and joint resolution empowered and directed the executive to appoint three commissioners to act with such like commissioners as shall or may be appointed by the authority of the state of Nebraska, to ascertain and report to the governor a true and correct boundary line between the states of Nebraska and South Dakota at the place herein mentioned and described, at some time prior to the next session of the legislature of the state of South Dakota, together with a draft of a compact or agreement to be entered into by said states in settlement of said boundary. Also directed that the Secretary of State transmit to the Governor of the state of Nebraska, and to each house of the legislature of said state an authenticated copy of the resolution. In accordance with the provisions thereof, the executive on the 14th day of March 1895, appointed as commissioners on the part of South Dakota, Andrew E. Lee, E. C. Erickson and E. H. VanAntwerp with full power to act as said commission for South Dakota.

On the 11th day of September 1895, the Governor of the state of Nebraska under and by virtue of authority conferred upon him by the legislature of Nebraska did appoint and commission C. J. Smyth, Ed. A. Fry and J. W. Edgerton as said commission, with full power and authority to act as commissioners on the part of the state of Nebraska. Report of the joint commission now on file in the executive office, declares:

"We, the said commissioners, appointed as aforesaid, acting under and by virtue of the authority aforesaid, do hereby unanimously declare the true and correct boundary line between the states of Nebraska and South Dakota, as far as the same is the boundary between the counties of Clay in South Dakota and Dixon in Nebraska, to be as follows: Commencing at a point in the center of the channel of the Missouri river directly north of the west line of Dixon county, Nebraska, thence down the middle of the channel of said Missouri river, and following the meanderings thereof to a point directly south of the east line of Clay county, South Dakota, and we here, with submit a draft of the compact or agreement to be entered into by said states in settlement of said boundary as required by said resolution.

In testimony whereof we have hereunto subscribed our names this 9th day of October A. D. 1895, at Vermillion, South Dakota.

Signed by the members of the commission."

The commissioners further report:

"We, the members of the joint commission, appointed under and by virtue of the authority set forth in the report submitted herewith do hereby recommend to our respective states, that the center of the main channel of the Missouri river, be found, declared and established as the boundary line between said states of South Dakota and Nebraska between the following points, that is to say:

Commencing at a point in the center of the main channel of the Missouri river, where the range line between ranges fifty-eight and fifty-nine (58 and 59), west of the fifth Principal Meridian intersects the same, thence down the middle of the main channel of said Missouri river and following the meanderings thereof, to a point directly south of the east line of BonHomme county, South Dakota.

Also commencing at a point in the center of the main channel of the Missouri river, where the west line of Dakota county, Nebraska, intersects said channel, thence down the center of the main channel of said Missouri river and following the meanderings thereof, to a point where the boundary line, between the states of South Dakota and Iowa intersects the main channel of said river.

The foregoing recommendations are made for the reason that, between the points designated, the same condition of affairs exist as at the point designated in the resolutions under which this commission was appointed.

And we further recommend, that the act ratifying the action of this commission, in determining the boundary line between the county of Clay, in South Dakota, and the county of Dixon, in Nebraska, should include the boundary lines herein designated.

And we further recommend, that after the ratification of the actions of this commission by the legislatures of our respective states that said legislatures memorialize congress to consent to and ratify the action of said legislatures, by fixing the boundary line between said states as agreed upon.

In testimony whereof, we have hereunto subscribed our names, this 9th day of October, 1895 at Vermillion, South Dakota.

Signed by members of the commission."

The following compact has been prepared for signature by the executives of the state of Nebraska and South Dakota, whenever so empowered by the legislatures thereof:

"Whereas, the Governor of South Dakota, acting under and by virtue of authority conferred upon him by law, did appoint Andrew E. Lee, E. C. Erickson and E. H. VanAntwery, commissioners to act with a like number of commissioners to be appointed by the Governor of the state of Nebraska to ascertain and report a true and correct boundary line between the state of Nebraska and the state of South Dakota between certain points.

Whereas, the Governor of Nebraska, acting under and by virtue of law, conferred upon him by law, did appoint C. J. Smyth, Ed. A. Fry and J. W. Edgerton, commissioners to act with said commissioners, appointed as aforesaid by the state of South Dakota.

Whereas, said commissioners met, formed a joint commission consisting of six commissioners, and said joint commissioners ascertained said boundary line and reported the same as by law required.

Whereas, the legislature of South Dakota and the legislature of Nebraska, by acts duly passed, have approved and adopted, subject to the action of congress, the boundary line ascertained and reported by said commission.

Whereas, the legislature of Nebraska has authorized and directed the Governor of the state of Nebraska, to enter into and sign in behalf of the state of Nebraska, the compact hereinafter set out, and

Whereas, the legislature of the state of South Dakota has authorized and directed the Governor of South Dakota to enter into and sign in behalf of the state of South Dakota, the compact hereinafter set out.

Whereas, this compact, made and entered into on this.....
day of.....1997, by and between.....
..... Governor of the state of South Dakota, in behalf of said state of South Dakota and ".....

"Witnesseth: That, subject to the consent of the congress the center of the main channel of the Missouri River is hereby established as, and declared to be, the boundary line between the state of Nebraska and the state of South Dakota, between the following points, that is to say: Between a point in the center of the channel of the Missouri river, directly north of the west line of Dixon county, Nebraska, and a point in the center of said channel, directly south of the east line of Clay county, South Dakota. Subject to the consent of congress, the center of the main channel of the Missouri river, is hereby established as, and declared to be, the boundary line between the state of Nebraska and the state of South Dakota, between the following points, that is to say: Between a point in the center of the main channel of the Missouri river where the range line between ranges fifty-eight and fiftynine,*est of the fifth P. M. intersects said main channel and a point directly south of the east line of BonHomme county, South Dakota; also between a point in the center of the main channel of said river, where the west line of Dakota county, Nebraska, intersects said main channel, and a point where the boundary line between the state of South Dakota and the state of Iowa intersects the main channel of said Missouri river.

In witness whereof, we have hereunto set our hands and have caused the Great Seals of our respective states, to be affixed hereto this
day of A. D. 1897."

CRIMINAL LAW.

The only criminal law which we now have is that which we brought with us from territorial conditions and it ought no longer to remain as a disgrace to the state. If it is true that a man may be sent to the Penitentiary for five years for stealing a horse estimated not to be worth to exceed twenty-five dollars, and perhaps not worth one-half of that, while a person who embezzles a quarter of a million dollars can only be subjected to two years imprisonment, because of the absence of law inflicting more severe penalties, there is something radically wrong. Such a law as this only serves to justify the declarations which are sometimes made, that penal laws are only for the punishment of the ignorant and lowly, and that there is always some loop hole in the law through which the wealthy, surrounded by influential friends may escape. The best way to create and preserve respect

for law is by teaching the people that while it is stern and inflexible it is no respecter of persons. I hope this legislature will not adjourn until it has enacted a law so plain that its provisions may not be misunderstood, and that the punishment provided will be in every instance commensurate with the crime.

On the thirtieth day of January 1896, A. G. Kellam, at that time one of the Justices of the Supreme Court, resigned under circumstances which did not admit of delay.

The Honorable D. Haney, then Judge of the fourth judicial circuit was appointed to the vacancy created upon the Supreme Bench, to fill out the unexpired term, and the Honorable F. B. Smith of Alexandria was appointed to succeed Judge Haney in the fourth judicial circuit. I have been gratified at the congratulations I have received from many parties over the state on account of the appointment of these gentlemen. In both instances the appointments came to them unasked.

Our law in regard to the canvassing of election returns needs radical changes. Neither the Governor nor one of the Judges of the Supreme Court should under any circumstances have any thing to do with the canvassing of these returns. The Governor is designated in the law as the proper person to issue certificates of election to successful candidates, and very rightfully so. On this account alone, if for no other reason, he ought to have no voice in the canvass. Let the canvassers certify to him the names of the successful candidates, the certificates will then be issued without hesitancy. The impropriety of requiring one of the Judges of the Supreme Court to act as one of the board of canvassers is too apparent to need argument here. He is a member of the Tribunal, which may perhaps in the due course of law have to pass upon the legality of the acts of the canvassers themselves, and the impropriety of his passing upon the acts of a board of which he is a member, will at once suggest itself to every member of the legislature. Further comment in this particular seems to me unnecessary. I believe you will provide a law which will meet every exigency of the case, and remove any possibility of wrong doing, or any doubt in the minds of the people as to the action of these boards or the issuance of certificates.

POWERS OF EXECUTIVE.

The Governor of this state under the present construction of our law is a mere figure-head. He can approve or disapprove the acts of the legislature, and can issue proclamations and sign commissions, but he cannot remove the most insignificant creature of his appointment, no matter how flagrant his violation of law may be, or how great the necessity which may exist for his removal. The constitution says the Governor shall see that the laws are enforced. The people hold him responsible not only for his own acts, but for the act of every subordinate within the state. Under the present conditions of things, he is absolutely powerless. He may perhaps grant an

order of suspension of an officer upon complaint, but if the order is refused he has no power to enforce it. Under the decision of the Supreme Court written by Judge Kellam, in the case of the State vs. J. W. Shannon, any appointee of the Governor may defy executive authority, and there is no appeal, except the Governor by himself or another is willing to go to a magistrate or some court, and make complaint. I hope this legislature will enact a law which will give the Governor such authority over his appointees as will enable him to hold them to strict accountability, and that he may have the power to remove them arbitrarily when they have been charged with malfeasance or misfeasance, after they have been afforded an opportunity to prove their innocence. Our law is indeed very defective as to the power of the Governor in interfering in any sense with the affairs of any other state officer. He may be guilty of the grossest misconduct, and even if the Governor can suspend him for a time, which is questionable, he can go no further. This is a serious matter, and it is your duty to see to it, that the Governor is vested with proper authority, or else that he shall be excused from any responsibility for any wrong which may be done.

CONCLUSION.

In taking leave of the office of Executive, I desire to express to all the other state officers and to employees in every department, my gratitude and thankfulness for the courtesy and kind treatment which they have always extended to me. Our relations have been cordial and pleasant, and I especially hope those who have been associated with me for the last four years will extend to my successor the same courteous and cordial support.

CHARLES H. SHELDON.

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